

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARK HENNING,

Plaintiff,

v.

RANDL S. JAHNS,
BRADLEY M. KNAPP and
SHAWN BECKER,

Defendants.

ORDER

06-cv-65-jcs¹

In a December 15, 2009 order, I denied plaintiff Mark Henning's motion to reopen this case three years after he voluntarily dismissed it. Now plaintiff has filed a motion for reconsideration of that order, arguing that he has been delayed for so long because he was incarcerated for much of the three-year period, and noting that Judge Shabaz "found merit" in his case by granting him leave to proceed.

I will deny plaintiff's motion. Regardless of plaintiff's incarceration, three years is an unreasonable time to wait to reopen the case. It is irrelevant that Judge Shabaz granted

¹ Because Judge Shabaz has taken senior status, I am assuming jurisdiction over this case for the purpose of issuing this order.

plaintiff leave to proceed; the issue is whether plaintiff has sought to reopen his case “within a reasonable time.” Fed. R. Civ. P. 60(b). Plaintiff has not shown a persuasive reason for the delay.

Plaintiff should understand that because the case was dismissed without prejudice, he remains free to file a new lawsuit containing the same allegations as his previous suit.

ORDER

IT IS ORDERED that plaintiff Mark Henning’s motion for reconsideration of the court’s December 15, 2009 order, dkt. #21, is DENIED.

Entered this 23rd day of February, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge